

111TH CONGRESS
1ST SESSION

S. 1689

To designate certain land as components of the National Wilderness Preservation System and the National Landscape Conservation System in the State of New Mexico, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17, 2009

Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To designate certain land as components of the National Wilderness Preservation System and the National Landscape Conservation System in the State of New Mexico, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Organ Mountains-
5 Desert Peaks Wilderness Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) CONSERVATION AREA.—The term “Con-
 2 servation Area” means each of the Organ Mountains
 3 National Conservation Area and the Desert Peaks
 4 National Conservation Area established by section
 5 4(a).

6 (2) MANAGEMENT PLAN.—The term “manage-
 7 ment plan” means the management plan for the
 8 Conservation Areas developed under section 4(d).

9 (3) SECRETARY.—The term “Secretary” means
 10 the Secretary of the Interior.

11 (4) STATE.—The term “State” means the State
 12 of New Mexico.

13 **SEC. 3. DESIGNATION OF WILDERNESS AREAS.**

14 (a) IN GENERAL.—In accordance with the Wilderness
 15 Act (16 U.S.C. 1131 et seq.), the following areas in the
 16 State are designated as wilderness and as components of
 17 the National Wilderness Preservation System:

18 (1) ADEN LAVA FLOW WILDERNESS.—Certain
 19 land administered by the Bureau of Land Manage-
 20 ment in Doña Ana County comprising approximately
 21 27,650 acres as generally depicted on the map enti-
 22 tled “Potrillo Mountains Complex” and dated Sep-
 23 tember 16, 2009, which shall be known as the
 24 “Aden Lava Flow Wilderness”.

1 (2) BROAD CANYON WILDERNESS.—Certain
2 land administered by the Bureau of Land Manage-
3 ment in Doña Ana County comprising approximately
4 13,900 acres as generally depicted on the map enti-
5 tled “Desert Peaks National Conservation Area”
6 and dated September 16, 2009, which shall be
7 known as the “Broad Canyon Wilderness”.

8 (3) CINDER CONE WILDERNESS.—Certain land
9 administered by the Bureau of Land Management in
10 Doña Ana County comprising approximately 16,950
11 acres as generally depicted on the map entitled
12 “Potrillo Mountains Complex” and dated September
13 16, 2009, which shall be known as the “Cinder Cone
14 Wilderness”.

15 (4) ORGAN MOUNTAINS WILDERNESS.—Certain
16 land administered by the Bureau of Land Manage-
17 ment in Doña Ana County comprising approximately
18 19,400 acres as generally depicted on the map enti-
19 tled “Organ Mountains National Conservation Area”
20 and dated September 16, 2009, which shall be
21 known as the “Organ Mountains Wilderness”.

22 (5) POTRILLO MOUNTAINS WILDERNESS.—Cer-
23 tain land administered by the Bureau of Land Man-
24 agement in Doña Ana and Luna counties comprising
25 approximately 143,450 acres as generally depicted

1 on the map entitled “Potrillo Mountains Complex”
2 and dated September 16, 2009, which shall be
3 known as the “Potrillo Mountains Wilderness”.

4 (6) ROBLEDO MOUNTAINS WILDERNESS.—Cer-
5 tain land administered by the Bureau of Land Man-
6 agement in Doña Ana County comprising approxi-
7 mately 17,000 acres as generally depicted on the
8 map entitled “Desert Peaks National Conservation
9 Area” and dated September 16, 2009, which shall be
10 known as the “Robledo Mountains Wilderness”.

11 (7) SIERRA DE LAS UVAS WILDERNESS.—Cer-
12 tain land administered by the Bureau of Land Man-
13 agement in Doña Ana County comprising approxi-
14 mately 11,100 acres as generally depicted on the
15 map entitled “Desert Peaks National Conservation
16 Area” and dated September 16, 2009, which shall be
17 known as the “Sierra de las Uvas Wilderness”.

18 (8) WHITETHORN WILDERNESS.—Certain land
19 administered by the Bureau of Land Management in
20 Doña Ana and Luna counties comprising approxi-
21 mately 9,600 acres as generally depicted on the map
22 entitled “Potrillo Mountains Complex” and dated
23 September 16, 2009, which shall be known as the
24 “Whitethorn Wilderness”.

1 (b) MANAGEMENT.—Subject to valid existing rights,
2 the wilderness areas designated by subsection (a) shall be
3 administered by the Secretary in accordance with this Act
4 and the Wilderness Act (16 U.S.C. 1131 et seq.), except
5 that any reference in the Wilderness Act to the effective
6 date of that Act shall be considered to be a reference to
7 the date of enactment of this Act.

8 (c) INCORPORATION OF ACQUIRED LAND AND INTER-
9 ESTS IN LAND.—Any land or interest in land that is with-
10 in the boundary of a wilderness area designated by sub-
11 section (a) that is acquired by the United States shall—

12 (1) become part of the wilderness area within
13 the boundaries of which the land is located; and

14 (2) be managed in accordance with—

15 (A) the Wilderness Act (16 U.S.C. 1131 et
16 seq.);

17 (B) this Act; and

18 (C) any other applicable laws.

19 (d) GRAZING.—Grazing of livestock in the wilderness
20 areas designated by subsection (a), where established be-
21 fore the date of enactment of this Act, shall be adminis-
22 tered in accordance with—

23 (1) section 4(d)(4) of the Wilderness Act (16
24 U.S.C. 1133(d)(4)); and

1 (2) the guidelines set forth in appendix A of the
2 Report of the Committee on Interior and Insular Af-
3 fairs to accompany H.R. 2570 of the 101st Congress
4 (H. Rept. 101–405).

5 (e) MILITARY OVERFLIGHTS.—Nothing in this sec-
6 tion restricts or precludes—

7 (1) low-level overflights of military aircraft over
8 the wilderness areas designated by subsection (a),
9 including military overflights that can be seen or
10 heard within the wilderness areas;

11 (2) flight testing and evaluation; or

12 (3) the designation or creation of new units of
13 special use airspace, or the establishment of military
14 flight training routes, over the wilderness areas.

15 (f) BUFFER ZONES.—

16 (1) IN GENERAL.—Nothing in this section cre-
17 ates a protective perimeter or buffer zone around
18 any wilderness area designated by subsection (a).

19 (2) ACTIVITIES OUTSIDE WILDERNESS
20 AREAS.—The fact that an activity or use on land
21 outside any wilderness area designated by subsection
22 (a) can be seen or heard within the wilderness area
23 shall not preclude the activity or use outside the
24 boundary of the wilderness area.

25 (g) POTENTIAL WILDERNESS AREA.—

1 (1) ROBLEDO MOUNTAINS POTENTIAL WILDER-
2 NESS AREA.—

3 (A) IN GENERAL.—Certain land adminis-
4 tered by the Bureau of Land Management,
5 comprising approximately 100 acres as gen-
6 erally depicted as “Potential Wilderness” on the
7 map entitled “Desert Peaks National Conserva-
8 tion Area” and dated September 16, 2009, is
9 designated as a potential wilderness area.

10 (B) DESIGNATION AS WILDERNESS.—

11 (i) IN GENERAL.—On the date on
12 which the Secretary publishes in the Fed-
13 eral Register the notice described in clause
14 (ii), the potential wilderness area des-
15 ignated under subparagraph (A) shall be—

16 (I) designated as wilderness and
17 as a component of the National Wil-
18 derness Preservation System; and

19 (II) incorporated into the
20 Robledo Mountains Wilderness des-
21 ignated by subsection (a)(6).

22 (ii) NOTICE.—The notice referred to
23 in clause (i) is notice that—

24 (I) the communications site with-
25 in the potential wilderness area des-

1 ignated under subparagraph (A) is no
2 longer used;

3 (II) the associated right-of-way is
4 relinquished or not renewed; and

5 (III) the conditions in the poten-
6 tial wilderness area designated by sub-
7 paragraph (A) are compatible with the
8 Wilderness Act (16 U.S.C. 1131 et
9 seq.).

10 (h) RELEASE OF WILDERNESS STUDY AREAS.—Con-
11 gress finds that, for purposes of section 603(c) of the Fed-
12 eral Land Policy and Management Act of 1976 (43 U.S.C.
13 1782(c)), the public land in Doña Ana County adminis-
14 tered by the Bureau of Land Management not designated
15 as wilderness by subsection (a)—

16 (1) has been adequately studied for wilderness
17 designation;

18 (2) is no longer subject to section 603(c) of the
19 Federal Land Policy and Management Act of 1976
20 (43 U.S.C. 1782(c)); and

21 (3) shall be managed in accordance with—

22 (A) the Federal Land Policy and Manage-
23 ment Act of 1976 (43 U.S.C. 1701 et seq.);

24 (B) this Act; and

25 (C) any other applicable laws.

1 **SEC. 4. ESTABLISHMENT OF NATIONAL CONSERVATION**
2 **AREAS.**

3 (a) ESTABLISHMENT.—The following areas in the
4 State are established as National Conservation Areas:

5 (1) ORGAN MOUNTAINS NATIONAL CONSERVA-
6 TION AREA.—Certain land administered by the Bu-
7 reau of Land Management in Doña Ana County
8 comprising approximately 86,650 acres as generally
9 depicted on the map entitled “Organ Mountains Na-
10 tional Conservation Area” and dated September 16,
11 2009, which shall be known as the “Organ Moun-
12 tains National Conservation Area”.

13 (2) DESERT PEAKS NATIONAL CONSERVATION
14 AREA.—Certain land administered by the Bureau of
15 Land Management in Doña Ana County comprising
16 approximately 75,600 acres, as generally depicted on
17 the map entitled “Desert Peaks National Conserva-
18 tion Area” and dated September 16, 2009, which
19 shall be known as the “Desert Peaks National Con-
20 servation Area”.

21 (b) PURPOSES.—The purposes of the Conservation
22 Areas are to conserve, protect, and enhance for the benefit
23 and enjoyment of present and future generations the cul-
24 tural, archaeological, natural, geological, historical, eco-
25 logical, wildlife, educational, recreational, and scenic re-
26 sources of the Conservation Areas.

1 (c) MANAGEMENT.—

2 (1) IN GENERAL.—The Secretary shall manage
3 the Conservation Areas—

4 (A) in a manner that conserves, protects,
5 and enhances the resources of the Conservation
6 Areas; and

7 (B) in accordance with—

8 (i) the Federal Land Policy and Man-
9 agement Act of 1976 (43 U.S.C. 1701 et
10 seq.);

11 (ii) this Act; and

12 (iii) any other applicable laws.

13 (2) USES.—

14 (A) IN GENERAL.—The Secretary shall
15 allow only such uses of the Conservation Areas
16 that the Secretary determines would further the
17 purposes described in subsection (b).

18 (B) USE OF MOTORIZED VEHICLES.—

19 (i) IN GENERAL.—Except as needed
20 for administrative purposes or to respond
21 to an emergency, the use of motorized ve-
22 hicles in the Conservation Areas shall be
23 permitted only on roads designated for use
24 by motorized vehicles in the management
25 plan.

1 (ii) NEW ROADS.—No additional road
 2 shall be built within the Conservation
 3 Areas after the date of enactment of this
 4 Act unless the road is necessary for public
 5 safety or natural resource protection.

6 (C) GRAZING.—The Secretary shall permit
 7 grazing within the Conservation Areas, where
 8 established before the date of enactment of this
 9 Act—

10 (i) subject to all applicable laws (in-
 11 cluding regulations) and Executive orders;
 12 and

13 (ii) consistent with the purposes de-
 14 scribed in subsection (b).

15 (D) UTILITY RIGHT-OF-WAY UPGRADES.—
 16 Nothing in this section precludes the Secretary
 17 from renewing or authorizing the upgrading
 18 (including widening) of an existing utility right-
 19 of-way through the Organ Mountains National
 20 Conservation Area—

21 (i) in accordance with—

22 (I) the National Environmental
 23 Policy Act of 1969 (42 U.S.C. 4321
 24 et seq.); and

25 (II) any other applicable law; and

1 (ii) subject to such terms and condi-
 2 tions as the Secretary determines to be ap-
 3 propriate.

4 (d) MANAGEMENT PLAN.—

5 (1) IN GENERAL.—Not later than 3 years after
 6 the date of enactment of this Act, the Secretary
 7 shall develop a management plan for each of the
 8 Conservation Areas.

9 (2) CONSULTATION.—The management plans
 10 shall be developed in consultation with—

11 (A) State, tribal, and local governments;

12 and

13 (B) the public.

14 (3) CONSIDERATIONS.—In preparing and imple-
 15 menting the management plans, the Secretary shall
 16 consider the recommendations of Indian tribes and
 17 pueblos on methods for—

18 (A) ensuring access to, and protection for,
 19 traditional cultural and religious sites in the
 20 Conservation Areas; and

21 (B) enhancing the privacy and continuity
 22 of traditional cultural and religious activities in
 23 the Conservation Areas.

24 (e) INCORPORATION OF ACQUIRED LAND AND INTER-
 25 ESTS IN LAND.—Any land or interest in land that is with-

1 in the boundary of a Conservation Area designated by sub-
 2 section (a) that is acquired by the United States shall—

3 (1) become part of the Conservation Area with-
 4 in the boundaries of which the land is located; and
 5 (2) be managed in accordance with—

6 (A) this Act; and

7 (B) any other applicable laws.

8 (f) TRANSFER OF ADMINISTRATIVE JURISDICTION.—

9 On the date of enactment of this Act, administrative juris-
 10 diction over the approximately 2,050 acres of land gen-
 11 erally depicted as “Transfer from DOD to BLM” on the
 12 map entitled “Organ Mountains National Conservation
 13 Area” and dated September 16, 2009, shall—

14 (1) be transferred from the Secretary of De-
 15 fense to the Secretary;

16 (2) become part of the Organ Mountains Na-
 17 tional Conservation Area; and

18 (3) be managed in accordance with—

19 (A) this Act; and

20 (B) any other applicable laws.

21 **SEC. 5. GENERAL PROVISIONS.**

22 (a) MAPS AND LEGAL DESCRIPTIONS.—

23 (1) IN GENERAL.—As soon as practicable after
 24 the date of enactment of this Act, the Secretary
 25 shall file maps and legal descriptions of the Con-

1 servation Areas and the wilderness areas designated
2 by section 3(a) with—

3 (A) the Committee on Energy and Natural
4 Resources of the Senate; and
5 (B) the Committee on Natural Resources
6 of the House of Representatives.

7 (2) FORCE OF LAW.—The maps and legal de-
8 scriptions filed under paragraph (1) shall have the
9 same force and effect as if included in this Act, ex-
10 cept that the Secretary may correct errors in the
11 maps and legal descriptions.

12 (3) PUBLIC AVAILABILITY.—The maps and
13 legal descriptions filed under paragraph (1) shall be
14 on file and available for public inspection in the ap-
15 propriate offices of the Bureau of Land Manage-
16 ment.

17 (b) NATIONAL LANDSCAPE CONSERVATION SYS-
18 TEM.—The Conservation Areas and the wilderness areas
19 designated by section 3(a) shall be administered as compo-
20 nents of the National Landscape Conservation System.

21 (c) FISH AND WILDLIFE.—Nothing in this Act af-
22 fects the jurisdiction of the State with respect to fish and
23 wildlife located on public land in the State, except that
24 the Secretary, after consultation with the New Mexico De-
25 partment of Game and Fish, may designate zones where,

1 and establish periods during which, hunting, or fishing
2 shall not be allowed for reasons of public safety, adminis-
3 tration, the protection for nongame species and their habi-
4 tats, or public use and enjoyment.

5 (d) WITHDRAWALS.—

6 (1) IN GENERAL.—Subject to valid existing
7 rights, the Federal land within the Conservation
8 Areas, the wilderness areas designated by section
9 3(a), and the approximately 6,300 acres of land gen-
10 erally depicted as “Parcel B” on the map entitled
11 “Organ Mountains National Conservation Area” and
12 dated September 16, 2009, including any land or in-
13 terest in land that is acquired by the United States
14 after the date of enactment of this Act within such
15 areas, is withdrawn from—

16 (A) entry, appropriation, or disposal under
17 the public land laws;

18 (B) location, entry, and patent under the
19 mining laws; and

20 (C) operation of the mineral leasing, min-
21 eral materials, and geothermal leasing laws.

22 (2) LIMITED WITHDRAWAL.—The approxi-
23 mately 1,300 acres of land generally depicted as
24 “Parcel A” on the map entitled “Organ Mountains
25 National Conservation Area” and dated September

Section 2103(b) of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 431 note; Public Law 111–11; 123 Stat. 1097) is amended by striking “December 17, 2008” and inserting “July 30, 2009”.

12 There are authorized to be appropriated such sums
13 as are necessary to carry out this Act.

•S 1689 IS